

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
*Richmond Division***

IN RE:

CIRCUIT CITY STORES, INC., et al.

Debtors.

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CHAPTER 11

Case No.: 08-35653

**HENRICO COUNTY, VIRGINIA'S RESPONSE AND OPPOSITION TO
DEBTORS' TWENTY-FOURTH OMNIBUS OBJECTION TO CLAIMS**

COMES NOW, the County of Henrico, Virginia (the "County"), by counsel, and files its Response and Opposition to the Debtors' Twenty-Fourth Omnibus Objection to Claims based on the following:

1. The Debtors request that twelve of the County's real estate tax claims (Claim Nos. 2246, 2253, 2256, 7664, 11450, 11451, 11454, 11457, 11476, 11788, 11789 and 11790) be disallowed on the basis that:

- a. The claims are asserted by taxing authorities for alleged real estate taxes on real property the Debtors leased but did not own; and the Debtors do not have any liability to the taxing authorities for real estate taxes on real property; and
- b. In many of their leases, the Debtors may be contractually obligated with the lessor to pay, among other things, real estate taxes on leased real property.

**REAL ESTATE TAXES ON PROPERTY LEASED TO CIRCUIT CITY
(CLAIM NOS. 11450, 11451, 11788, 11789 AND 11790)**

2. The County filed administrative claims for 2009 real estate taxes for properties owned by the following entities: Inland Western, Short Pump Towne

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Center, Circuit Investors 3, Diversified Developers Realty and Laburnum Investors. (Respectively, Claim Nos. 11450, 11451, 11788, 11789 and 11790) These Claims were amended to reflect payment of the 1st half of 2009 taxes.

3. The County opposes the Debtors objection to Claim Nos. 11450, 11451, 11788, 11789 and 11790 to the extent that the Debtors intent to impair the County's statutory liens against the assessed real estate and the County's authority to pursue Inland Western, Short Pump Towne Center, Circuit Investors 3, Diversified Developers Realty and Laburnum Investors for their respective real estate taxes. See Va. Code § 58.1-3340.

REAL ESTATE TAXES ON DEBTOR-OWNED HENRICO PROPERTY
(CLAIM NOS. 2246, 2256, 11454, 11457 AND 11476)

Claim No. 2246

4. On January 2, 2009, the County filed Secured Claim No. 2246 for \$12,914.72 due for 2nd half of 2008 real estate taxes assessed against the Debtors' property located at 3900 Deep Rock Road, Henrico, Virginia.

5. The Debtor Circuit City Stores Inc. acquired title to 3900 Deep Rock Road by deed dated September 9, 1996 and recorded September 13, 1996 in Deed Book 2673 at page 505 in the Clerk's Office of the Circuit Court of the County of Henrico, Virginia.

6. To date, title to the property has not transferred and no payments have been received for Claim No. 2246.

7. This secured claim should be allowed and Debtors should be required to make prompt payment together with statutory interest pursuant to 11 U.S.C. § 506.

Claim No. 2256

8. On January 2, 2009, the County filed Secured Claim No. 2256 for \$3,540.47 due for 2nd half of 2008 real estate taxes assessed against the Debtors' property located at 9970 Mayland Drive, Henrico, Virginia owned by Circuit City Stores Inc. and for 9844 West Broad Street, Henrico, Virginia owned by Circuit City Plaza Associates.

9. The County will amend Claim 2256 to remove the diminimus portion of the debt which is attributable to 9844 West Broad Street owned by Circuit City Plaza Associates.

10. The Debtor Circuit City Stores Inc. acquired title to 9970 Mayland Drive by deed dated January 27, 1997 and recorded February 12, 1997 in Deed Book 2710 at page 864 in the Clerk's Office of the Circuit Court of the County of Henrico, Virginia.

11. To date, title to 9970 Mayland Drive has not transferred and no payments have been received for Claim No. 2256.

12. The portion of this secured claim attributable to 9970 Mayland Drive should be allowed and Debtors should be required to make prompt payment together with statutory interest pursuant to 11 U.S.C. § 506.

Claim No. 11454

13. On February 17, 2009, the County filed an Administrative Expense Claim No. 11454 for \$23,481.30 due for 2009 real estate taxes assessed against the Debtors' property located at 3900 Deep Rock Road, Henrico, Virginia owned by Circuit City Stores Inc. No payments have been received.

14. Claim No. 11454 for 2009 taxes concerns the same real estate assessed in Claim No. 2246 for 2008 taxes and should be allowed for the same reasons and Debtors should be required to make prompt payment together with statutory interest pursuant to 11 U.S.C. §506.

Claim No. 11457

15. On February 17, 2009, the County filed an Administrative Expense Claim for \$417,625.23 due for 2009 real estate taxes assessed against the Debtors' property located at 9950 Mayland Drive, Henrico, Virginia owned by Circuit City Stores Inc. No payments have been received.

16. The Debtor Circuit City Stores Inc. acquired title to 9950 Mayland Drive by deed dated April 7, 1988 and recorded April 7, 1988 in Deed Book 2126 at page 1170 in the Clerk's Office of the Circuit Court of the County of Henrico, Virginia.

17. To date, title to the property has not transferred and no payments have been received for Claim No. 11457.

18. This secured claim should be allowed and Debtors should be required to make prompt payment together with statutory interest pursuant to 11 U.S.C. § 506.

Claim No. 11476

19. On February 17, 2009, the County filed an Administrative Expense Claim for \$6,433.65 due for 2009 real estate taxes assessed against the Debtors' property located at 9970 Mayland Drive, Henrico, Virginia owned by Circuit City Stores Inc. and 9844 West Broad Street, Henrico, Virginia owned by Circuit City Plaza Associates. No payments have been received.

20. The County will amend this claim to remove the diminimus portion of the debt which is attributable to 9844 West Broad owned by Circuit City Plaza Associates.

21. Claim No. 11476 for 2009 taxes concerns the same real estate assessed in Claim No. 2256 for 2008 taxes and should be allowed to the same extent and for the same reasons and Debtors should be required to make prompt payment together with statutory interest pursuant to 11 U.S.C. §506.

REAL ESTATE TAX CLAIMS PAID AND TO BE WITHDRAWN
CLAIM NOS. 2253 and 7764

22. The County will withdraw Claim Nos. 2253 and 7764 for 2nd half of 2008 real estate tax as paid.

WHEREFORE, the County prays that this Honorable Court enter an Order denying Debtors objection to Claim Numbers 11450, 11451, 11788, 11789, 11790 to the extent such objection would impair the County's statutory liens against the assessed real estate and the County's authority to pursue non-debtor owners of the real estate assessed with those claims; and that the Court deny the Debtors' objection and allow Claim Nos. 2246, 2256, 11454, 11457, 11476 and require that the Debtors pay these claims with statutory interest; and that the County be permitted to withdraw Claim Nos. 2253 and 7664 as paid and that the County be awarded its expenses and fees incurred in defending this objection.

Respectfully Submitted,

County of Henrico, Virginia
By: /s/ Rhysa Griffith South
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Henrico County, Virginia's Response and Opposition to Debtors' Twenty-Fourth Omnibus Objection to Claims filed by Henrico County, Virginia* was sent electronically to the court via the CM/ECF system on the 10th day of August, 2009.

/s/ Rhysa Griffith South
Rhysa Griffith South (VSB #25944)